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BEFORE THE
Federal Communications Commission

WASHINGTON, D. C. 20554

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In the Matter of
Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Charlotte Amalie, VI; Cruz Bay, VI;
Frederiksted, VI; Christiansted, VI;
Aguada, PR; Gurabo, PR; Utuado, PR;
San Juan, PR; Ponce, PR; and
Carolina, PR)

) MM DOCKET NO. 92-244

) RM-8027

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch

FURTHER REPLY

Virgin Islands Stereo Communications Corporation ("VISC"), by its attorneys, hereby supplies this further reply to the counter-proposals filed in the above-captioned proceeding on January 4, 1993 by Paradise Broadcasting Corporation ("Paradise") and El Mundo Broadcasting Corporation, Estereotempo, Inc., Radio Redentor, Inc. and Aurio Matos. Because the grand reconfiguration of FM channels advocated in the latter counterproposal would principally benefit Aurio Matos, it is hereinafter referred to as the "Matos Counterproposal."

As shown in VISC's Reply Comments filed January 19, 1993, the Matos Counterproposal is defective in a number of areas. Most critically, it involves the loss of the only FM service in Utuado, Puerto Rico, in order to add a channel to the extremely well-served

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Caguas-San Juan metropolitan area. Only this week, the Allocations Branch reconfirmed that proposals to move an existing channel to a suburban community in an urbanized area must first demonstrate that they would serve the Commission's allotment priorities and policies. Bay City, Texas, FCC DA 93-131 (MM Docket 89-459), released March 2, 1993.

There, the Commission rejected a proposal to move an existing FM channel to Rollingwood, a suburb of Austin, at the expense of LaGrange, Texas. The Commission noted that, first, it examines the "signal population coverage" of the new proposal, then the size of the suburban community relative to the central city, its proximity to the city, and whether the suburban community is within the urbanized area of the city. Last, the Commission examines the interdependence of the suburban community and the central city.

These factors all compel a rejection of the Matos Counterproposal. Exhibit 3 attached to the counterproposal demonstrates that, from the counterproponent's proposed site, Caguas would receive virtually as good a signal as Gurabo itself. Moreover, because the proposed site is located between Caguas and San Juan, San Juan would also receive a prime signal from what is now Utuado's only FM service. Accordingly, the proposed station should be viewed as one serving the entire San Juan-Caguas metropolitan area.

The relative size of the cities in question also militates against the award of a first local service preference for the Gurabo allotment. Gurabo, with fewer than ten thousand inhabitants, is only a small fraction of the size of Caguas, which in

turn is a fraction of the size of San Juan.

Similarly, the proximity of the communities in question compels the conclusion that Gurabo is to be treated as a suburb and not as an individual community for allotment purposes. Gurabo is only two miles from Caguas, and is separated from San Juan by only eight miles.

Finally, the economic, social and cultural aspects of Gurabo are intimately intertwined with those of Caguas, and to a slightly lesser extent, with San Juan. That fact is, of course, key to the Census Bureau's determination to include Gurabo in the Caguas Urbanized Area in the first place.

A further flaw in the Matos Counterproposal, in addition to those discussed above, is the confusion it would produce. The Commission has made clear that a channel allotment proposal involving more than two frequency substitutions will not be granted, yet the Matos Counterproposal involves some nine shifts and substitutions. It is simply too complex to warrant further attention in this proceeding.

The defects in the Matos Counterproposal bar its adoption, but do not mandate a grant of the original rulemaking petition filed by Calypso in this docket. As VISC argued in its initial comments, there is no basis for substituting Channel 267B for Channel 246B at Charlotte Amalie. The new channel is by no means the equivalent of Channel 246B, but is a far more attractive frequency. Channel 246B is, by the petitioner's own admission, subject to substantial interference from a station in Tortola in the British Virgin Islands. Calypso took the grant of its permit for Channel 246B

with full knowledge of that problem. See the attached excerpt from Calypso's permit, at page 4.

By contrast, Channel 267B, if allotted to Charlotte Amalie, would be an attractive facility from a technical standpoint. Thus, the petitioner's proposal is analogous to a non-adjacent FM channel upgrade. While VISC is not advocate of adding new channels to the Virgin Islands in the first place, because of the adverse economics stemming from the existing radio station proliferation there, if Channel 267B were allotted to Charlotte Amalie (or to Cruz Bay as requested by Paradise), VISC would file an application for its use.¹ Indeed, as the pairing up of the stations in the area under the FCC's new duopoly rules continue, it may provide an avenue of survival for VISC to undertake a Channel 267B operation.

At all events, if the Commission proceeds with the allotment of Channel 267B, applications for the channel should be accepted from all interested parties in order that the Commission may select the best steward for that frequency.² Since Calypso has never constructed WVNXX, there is no basis for it to lay claim on the

1 This assumes that the Commission would resolve the issue of shadowing, raised by VISC in its initial comments, in favor of the Channel 267B allotment.

2 The Commission should not reject VISC's expression of interest on the basis that VISC owns an existing station in the Virgin Islands. The petitioner in this docket, Calypso Communications is under common ownership with FM station WJKC, Christiansted, Virgin Islands. The Calypso principals have never effectuated their commitment to divest their connection with WJKC, even though that commitment was made over five years ago. The effectuation of Calypso's divestiture commitment is an explicit condition on the outstanding WVNXX construction permit. Thus, at least for the time being, Calypso's principals should be viewed as having two stations.

Commission's sympathies to bootstrap its way from a permit for a substandard frequency to one for a station affording wide-area, interference-free service.

Calypso was not selected from among several applicants in a comparative hearing; rather, it was the only party to file an application form for Channel 246B. Other potential broadcasters, who did not file for Channel 246B because of the adjacent Tortola allotment, should not now be frozen out of the opportunity to pursue a permit for Channel 267B. The same logic applies to the request by Paradise Broadcasting for use of Channel 267B at Cruz Bay.

In view of the foregoing, the Commission should either reject all of the proposed changes in the Table of Allotments advanced in this proceeding, or, if an allotment of Channel 267B is made to Charlotte Amalie or Cruz Bay, that channel should be opened for all competing applicants.

Respectfully submitted,

VIRGIN ISLANDS STEREO COMMUNICATIONS
CORPORATION

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March 4, 1993



FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

D/B/A CALYPSO COMMUNICATIONS
4433 WELLS PARKWAY
UNIVERSITY PARK, MD 20782

Authorizing Official:

Vilma F. Anderson
Vilma F. Anderson
Supr Applications Examiner, FM Branch
Audio Services Division
Mass Media Bureau

Grant Date: June 25, 1991

Call sign: WVNK

This permit expires 3:00 am.
local time: December 25, 1992

Permit File No.: BPH-870707MI

This authorization re-issued to reflect a call sign change from
870707MI to WVNK effective 8/09/91.

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of permittee:

ROBERT E. MILLER, JOHNATHAN COHEN AND ARTHUR V. BELENDIUK
d/b/a CALYPSO COMMUNICATIONS

Station Location:

VI-CHARLOTTE AMALIE

Frequency (MHz): 97.1

Paragraph 21.0, FCC Form 715 (March 1978):

All lighting shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

Paragraph 22.0, FCC Form 715 (March 1978):

During construction of an antenna structure, for which obstruction lighting is required, at least two 116- or 125-watt lamps (A21/TS) enclosed in aviation red obstruction light globes, shall be installed at the uppermost point of the structure. In addition, as the height of the structure exceeds each level at which permanent obstruction lights will be required, two similar lights shall be displayed nightly from sunset to sunrise until the permanent obstruction lights have been installed and placed in operation, and shall be positioned so as to insure unobstructed visibility of at least one of the lights at any normal angle of approach. In lieu of the above temporary warning lights, the permanent obstruction lighting fixtures may be installed and operated at each required level as each such level is exceeded in height during construction.

Special operating conditions or restrictions:

The grant of this application is without prejudice to whatever action, if any, the Federal Communications Commission may take in light of the current negotiations with the British Virgin Islands. See letter from Bradley P. Holmes, Chief, Policy and Rules Division, Mass Media Bureau, dated April 11, 1989 to Alan Rowlands, Department of Trade and Industry, Radio Communications Division, London, England.

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Prior to commencement of operation of the station authorized herein pursuant to program test authority, Calypso shall certify to the Commission that its principals, Jonathan Cohen and Robert Miller, have divested themselves of all interest in and terminated their employment at station WJKC (FM), Christiansted, St. Croix, Virgin Islands.

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CERTIFICATE OF SERVICE

I, V. Frappier, hereby certify that I have, this 4th day of March, 1993, caused to be sent by U.S. first-class mail, postage-prepaid, a true and correct copy of the foregoing "Further Reply" to the following:

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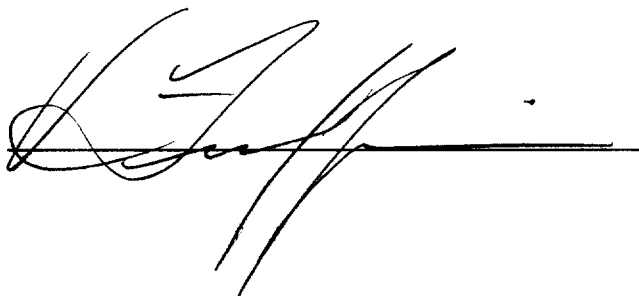
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A handwritten signature in black ink, appearing to read 'V. Frappier', with a long horizontal line extending to the right.